

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

BRITTNEY CRUM,)	
)	
Plaintiff,)	
)	
vs.)	
)	
BOONE COUNTY SHERIFF'S)	
DEPARTMENT, DEPUTY JONATHON)	
BARNES, in his Individual and Official)	
Capacity, SHERIFF MICHAEL NIELSON, in)	Cause No.: 23-570
his Individual and Official Capacity,)	
LEBANON POLICE DEPARTMENT, and)	
CHIEF CHAD MORGAN, in his Individual)	
and Official Capacity, and JAMIAH)	
BROWN,)	
)	
Defendants.)	

PLAINTIFF'S COMPLAINT AND JURY DEMAND

Plaintiff, Brittney Crum, by counsel, asserts the following in support of her claims against the Defendants, Boone County Sheriff's Department, Deputy Jonathon Barnes, in his Individual and Official Capacity, Sheriff Michael Nielson, in his Individual and Official Capacity, Lebanon Police Department, and Chief Chad Morgan, in his Individual and Official Capacity, and Jamiah Brown:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, Brittney Crum, resides with her parents, Jason and Deborah Crum in Lebanon, Boone County, Indiana and is a citizen of Indiana.
2. Defendant, Boone County Sheriff's Department, is a law enforcement entity located in Boone County, Indiana with its headquarters located at 1905 Indianapolis Avenue, Lebanon, Indiana 46052.

3. Defendant, Deputy Jonathon Barnes, is an Indiana citizen and resides in Indiana.

4. Defendant, Deputy Jonathon Barnes, is a Boone County Sheriff Department Sheriff Deputy and employee of Defendant, Boone County Sheriff's Department.

5. Defendant, Deputy Jonathon Barnes, was acting within the scope of his employment under the color of state law at the time of the subject incident.

6. Defendant, Sheriff Michael Nielson, is an Indiana citizen and resides in Indiana.

7. Defendant, Sheriff Michael Nielson, is the Sheriff for Boone County and is employed by Defendant, Boone County Sheriff's Office.

8. Defendant, Sheriff Michael Nielson, was acting within the scope of his employment under the color of state law at the time of the subject incident.

9. Defendant, Lebanon Police Department, is a law enforcement entity located in Lebanon, Boone County, Indiana with its headquarters located at 201 East Main Street, Lebanon, Indiana 46052.

10. Defendant, Chief Chad Morgan, is an Indiana citizen and resides in Indiana.

11. Defendant, Chief Chad Morgan, is the Chief of Police for the Lebanon Police Department and was employed by Defendant, Lebanon Police Department.

12. Defendant, Jamiah Brown, is an Indiana citizen and resides at 1111 East 7th Street, Muncie, Delaware County, Indiana 47302.

13. Pursuant to the Indiana Tort Claims Act, Ind. Code § 34-13-3-1, Plaintiffs notice to Defendants, Boone County Sheriff's Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, Lebanon Police Department, and Chief Chad Morgan on December 1, 2021 (*Attached as Exhibit A*).

14. This Court has jurisdiction over Plaintiffs' federal claims pursuant to 28 U.S.C. § 1331 because this is a civil action arising from the United States Constitution and federal laws. This action at law for damages arises under 42 U.S.C. § 1983 and the United States Constitution to redress a deprivation under color of state law of rights, privileges, and immunities secured to Plaintiffs by the 14th Amendment and 4th Amendment of the United States Constitution.

15. This Court has jurisdiction over any and all state law claims pursuant to 28 U.S.C. § 1367 because these state law claims are related to the same controversy that this Court had original jurisdiction over pursuant to 28 U.S.C. § 1331.

16. Venue is proper within this District pursuant to 28 U.S.C. § 1391 because Defendants are Indiana citizens and a substantial part of the events giving rise to this action occurred within the Southern District of Indiana.

FACTUAL ALLEGATIONS

17. Plaintiffs reallege and reincorporate the information contained in paragraphs one (1) through sixteen (16) and include them herein by reference.

18. On June 8, 2021, at or about 4:04 P.M., Defendant, Deputy Jonathon Barnes ("Deputy Barnes"), operating within the scope of his employment as a Boone County Sheriff's Deputy, attempted to stop a stolen vehicle, driven by Defendant, Jamiah Brown.

19. The vehicle driven by Defendant, Jamiah Brown, had several passengers in it, including at least one infant child and an additional minor.

20. Defendant Deputy Barnes, initiated a pursuit chase to stop the stolen vehicle on Indiana State Road 32 heading eastbound.

21. The high-speed chase reached speeds of nearly 100 mph.

22. Eastbound travel on the portion of Indiana State Road 32, where the high-speed chase occurred, leads directly into and through downtown Lebanon, Indiana and a heavily populated town square.

23. During the aforementioned high-speed chase, the Lebanon Police Department also joined in the pursuit, similarly reaching speeds of nearly 100 mph.

24. At, approximately, 4:04 P.M., Plaintiff, Brittney Crum was driving her vehicle northbound on Indiana State Road 39 and approached the intersection of Indiana State Road 39 and Indiana State Road 32.

25. During the high-speed police chase, Defendant, Jamiah Brown drove through a red light and collided with the vehicle driven by Plaintiff, Brittney Crum, propelling Ms. Crum and her vehicle into a nearby, adjacent parking lot, where the vehicle finally stopped after Ms. Crum's vehicle collided with a parked car in this parking lot.

26. Plaintiff, Brittney Crum, was immediately transported to a nearby hospital to treat her severe injuries.

27. As a result of this violent collision, Plaintiff Brittney Crum, suffered severe and permanent damage, including but not limited to, several orthopedic fractures requiring surgical intervention, organ damage, maxillofacial injuries, and a severe head injury.

28. Defendant, Deputy Jonathon Barnes, had not been properly trained on how to engage in a vehicle pursuit with a suspect so as to reasonably minimize the danger of such a pursuit to other motorists.

29. Defendants, Boone County Sheriff's Office and Lebanon Police Department, did not have the appropriate policies, training, and other safeguards in place concerning its officers engaging with those suspected of driving stolen vehicles and/or engaging in high-speed police

chases that pose a high risk of danger to the suspects, their passengers, and/or other motorists on the road.

COUNT I – DEFENDANTS, BOONE COUNTY SHERIFF’S DEPARTMENT, DEPUTY JONATHON BARNES, SHERIFF MICHAEL NIELSON, LEBANON POLICE DEPARTMENT, and CHIEF CHAD MORGAN’S VIOLATION OF BRITTNEY CRUM’S CONSTITUTIONAL RIGHTS (42 U.S.C. § 1983)

30. Plaintiffs reallege and reincorporate the information contained in paragraphs one (1) through twenty-nine (29) and include them herein by reference.

31. Defendants Boone County Sheriff’s Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan’s actions were reckless and posed a high risk of danger to the passengers of the suspect vehicle, other motorists, and pedestrians such that they acted with gross negligence, and in a manner that shocks the conscious.

32. Plaintiff, Brittney Crum, had a right to be free from any alteration to her life or liberty without due process of law was protected by the 14th Amendment and to be free from the use of excess of force under the 4th Amendment to the United States Constitution.

33. Defendants, Boone County Sheriff’s Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan violated Plaintiff, Brittney Crum’s, right to due process of law under the 14th Amendment when Deputy Jonathon Barnes, Boone County Sheriff’s Department, and Lebanon Police Department initiated and/or engaged in a high-speed police chase, knowing of the high risk of danger it posed to other motorists, and caused severe injury to Brittney Crum as a result of the high-speed chase.

34. Defendants, Boone County Sheriff’s Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan acted with such disregard for the safety of public when engaging in this high-speed chase that it shocks the conscious.

35. Defendants Boone County Sheriff's Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan acted under color of law, within the scope of their employment, and violated various ordinances, regulations, and customs by engaging in a high-speed chase that posed a high risk of danger to the public.

36. Defendants, Boone County Sheriff's Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan, violated the constitutional rights of Plaintiff, Brittney Crum, by committing the following acts, which include but are not limited to:

- a. Failing to develop and implement proper policies and procedures related to pursuit of those suspected of stealing vehicles;
- b. Failing to develop and implement proper policies and procedures related to high-speed pursuits;
- c. Failing to properly train their employees on how to appropriately engage and pursue someone suspected of stealing a vehicle;
- d. Failing to properly train their employees on how to appropriately conduct a high-speed pursuit, including when a pursuit must cease;
- e. Approaching and engaging with those suspected of operating a stolen vehicle;
- f. Improperly engaging with those who attempt to flee police who are stopped or under police custody;
- g. Improperly initiating and engaging in a high-speed chase despite the dangers it posed to the public;
- h. Failing to initiate appropriate measurements to limit or stop the suspected vehicle;

- i. Improperly failing to cease the pursuit given the danger it posed to the public;
- j. Failing to close the intersection of Indiana State Road 32 and Indiana State Road 39 despite having knowledge of the high-speed chase and its directional pursuit;
- k. Failing to properly communicate with each other, dispatch, and/or other police agencies involved in the high-speed chase after initiation of the chase;
- l. Creating an unreasonably high risk of danger to the motoring public; and
- m. Using excessive force without legal justification.

37. Defendants', Boone County Sheriff's Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan, acts, failures, omissions or the like amounted to deliberate indifference which resulted in the Plaintiff's injuries and damages complained of herein.

38. Through their acts, failures, omissions, customs, practices, and policies and/or lack thereof, of Defendants, Boone County Sheriff's Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan acted with such disregard for Plaintiff, Brittney Crum's, constitutional rights, that it shocks the conscious.

39. Defendants, Boone County Sheriff's Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan, are not entitled to qualified immunity as their conduct violates clearly established statutory or constitutional rights of which a reasonable person would know.

40. Defendants, Boone County Sheriff's Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan, knew or should have known of their history of the above-mentioned acts, omissions, and/or failures, and failed to remediate such acts, omissions, and/or failures.

41. As a direct and proximate cause of Defendants', Boone County Sheriff's Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan, conduct, Plaintiff, Brittney Crum, was violently struck by Defendant, Jamiah Brown's, vehicle and was deprived of her constitutional right of due process pursuant to the 14th Amendment.

42. As a result of this violation and collision, Plaintiff, Brittney Crum, has incurred hospital and medical expenses, suffered permanent injury, endured physical pain and mental anguish, and will continue to incur such damages and other losses in the future.

43. Accordingly, Defendants Boone County Sheriff's Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan are liable for Plaintiff's, Brittney Crum, injuries and damages under 42 U.S.C. § 1983 for the violations of her 14th Amendment right to due process.

**COUNT II – NEGLIGENCE OF DEFENDANTS, BOONE COUNTY SHERIFF'S
DEPARTMENT, DEPUTY JONATHON BARNES, SHERIFF MICHAEL NIELSON,
LEBANON POLICE DEPARTMENT, and CHIEF CHAD MORGAN**

44. Plaintiffs reallege and reincorporate the information contained in paragraphs one (1) through forty-three (43) and include them herein by reference.

45. Defendants, Boone County Sheriff's Department, by and through the acts of its employees, Deputy Jonathon Barnes and Sheriff Michael Nielson, and Lebanon Police Department by and through the acts of its employee, Chief Chad Morgan, owed Plaintiff, Brittney Crum a duty of care and to conduct themselves and their agencies in a reasonably safe manner.

46. Defendants, Boone County Sheriff's Department, by and through the acts of its employees, Deputy Jonathon Barnes and Sheriff Michael Nielson, and Lebanon Police Department

by and through the acts of its employee Chief Chad Morgan were negligent in one or more of the following ways:

- a. Failing to develop and implement proper policies and procedures related to pursuit of those suspected of stealing vehicles;
- b. Failing to develop and implement proper policies and procedures related to high-speed pursuits;
- c. Failing to properly train their employees on how to appropriately engage and pursue someone suspected of stealing a vehicle;
- d. Failing to properly train their employees on how to appropriately conduct a high-speed pursuit, including when a pursuit must cease;
- e. Approaching and engaging with those suspected of operating a stolen vehicle;
- f. Improperly engaging with those who attempt to flee police who are stopped or under police custody;
- g. Improperly initiating and engaging in a high-speed chase despite the dangers it posed to the public;
- h. Failing to initiate appropriate measurements to limit or stop the suspected vehicle;
- i. Improperly failing to cease the pursuit given the danger it posed to the public;
- j. Failing to close the intersection of Indiana State Road 32 and Indiana State Road 39 despite having knowledge of the high-speed chase and its directional pursuit;
- k. Failing to properly communicate with each other, dispatch, and/or other police agencies involved in the high-speed chase after initiation of the chase;
- l. Creating an unreasonably high risk of danger to the motoring public; and

m. Using excessive force without legal justification.

47. Defendants, Boone County Sheriff's Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan owed Plaintiff, Brittney Crum a duty of care and to conduct themselves and their agencies in a reasonably safe manner and were negligent for the acts of the Deputy Jonathon Barnes and the other officers involved in the high-speed chase as these officers were acting within the scope of employment under the doctrine of *respondeat superior*.

48. As a direct and proximate cause of Defendants', Boone County Sheriff's Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan, negligence, Plaintiff, Brittney Crum, has incurred hospital and medical expenses, suffered permanent injury, endured physical pain and mental anguish, and will continue to incur such damages and other losses in the future.

49. Accordingly, Defendants, Boone County Sheriff's Department, Deputy Jonathon Barnes, Sheriff Michael Nielson, the Lebanon Police Department, and Chief Chad Morgan are liable for Plaintiff, Brittney Crum's, injuries and damages.

COUNT III – NEGLIGENCE OF DEFENDANT, JAMIAH BROWN

50. Plaintiffs reallege and reincorporate the information contained in paragraphs one (1) through forty-nine (49) and include them herein by reference.

51. Defendant, Jamiah Brown, was negligent or negligent per se in one or more of the following ways:

- a. Fleeing from law enforcement officers pursuant to Ind. Code § 35-44.1-3-1;
- b. Driving recklessly and at an unreasonably high speed pursuant to Ind. Code § 9-21-8-52;

- c. Failing to yield to the right-of-way;
- d. Failing to stop at a red light pursuant to Ind. Code § 9-30-3-14;
- e. Failing to maintain a proper lookout for other vehicles;
- f. Failing to maintain a proper control over the vehicle she was driving so as to avoid a collision; and
- g. Failing to use reasonable care in the operation of the vehicle she was driving.

52. As a direct and proximate result of Defendant, Jamiah Brown's, negligence, Plaintiff, Brittney Crum, has incurred hospital and medical expenses, suffered permanent injury, endured physical pain and mental anguish, and will continue to incur such damages and other losses in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Brittney Crum, prays for judgment against the Defendants, Boone County Sheriff's Department, Deputy Jonathon Barnes, in his Individual and Official Capacity, Sheriff Michael Nielson, in his Individual and Official Capacity, Lebanon Police Department, and Chief Chad Morgan, in his Individual and Official Capacity, and Jamiah Brown in an amount which will fully and fairly compensate Plaintiff for the costs of this action, for interest and attorneys as allowed by law, and for all other just and proper relief in the premises.

Respectfully submitted,

WILSON KEHOE WININGHAM, LLC

/s/ W. Kent Winingham

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REQUEST FOR TRIAL BY JURY

Plaintiffs Jason Crum and Deborah Crum, Individually and on behalf of Brittney Crum, by counsel, respectfully requests that this matter be tried by a jury.

Respectfully submitted,

WILSON KEHOE WININGHAM, LLC

/s/ W. Kent Winingham

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